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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,185	02/25/2004	Cecile Drogou	2092.PKG	2385
7590 Cynthia L. Foulke NATIONAL STARCH AND CHEMICAL COMPANY 10 Finderne Avenue Bridgewater, NJ 08807-0500			EXAMINER SZEKELY, PETER A	
			ART UNIT 1796	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* CECILE DROGOU, GWENAELE ALLANDRIEU,  
JUSTIN A. MEHAFFY, and JAGRUTI B. PATEL

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Appeal 2009-2040  
Application 10/786,185  
Technology Center 1700

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Decided:<sup>1</sup> April 08, 2009

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Before EDWARD C. KIMLIN, ADRIENE LEPIANE HANLON, and  
JEFFREY B. ROBERTSON, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-3, 6-9, and

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the Decided Date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

11-13. We have jurisdiction under 35 U.S.C. § 6(b). Claim 5 has been indicated as allowable by the Examiner.

Claim 1 is illustrative:

1. A hot melt adhesive that can be applied to a substrate at a temperature of less than about 110°C, said adhesive comprising

ethylene n-butyl acrylate as the only ethylene copolymer present in said adhesive,

a paraffin wax,

a rosin derived tackifier and

an aromatic tackifier.

The Examiner relies upon the following references as evidence of obviousness (Ans. 2):

Halloran	6,239,208 B1	May 29, 2001
Haner (hereafter Haner '407)	6,593,407 B2	Jul. 15, 2003
Haner (hereafter Haner '526)	2002/0146526 A1	Oct. 10, 2002

Appellants' claimed invention is directed to a hot melt adhesive comprising the recited components. The adhesive can be applied to a substrate at a temperature of less than about 110°C.

Appealed claims 1-3, 6-9, and 11-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Halloran, Haner '407, or Haner '526. The final rejection on the grounds of obviousness-type double patenting is not stated in the Examiner's Answer and is therefore considered withdrawn.

Appellants have not separately argued any particular claim on appeal. Accordingly, all the appealed claims stand or fall together with claim 1.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejection for essentially those reasons expressed in the Answer, and we add the following primarily for emphasis.

There is no dispute that Halloran, like Appellants, discloses an adhesive composition comprising an ethylene/n-butyl acrylate copolymer, a paraffin wax, a rosin derived tackifier and an aromatic tackifier. Indeed, Appellants acknowledge "[t]he composition of Halloran is a flame retardant hot melt adhesive comprising at least one ethylene copolymer, a hydrated inorganic compound, at least one wax component and, optionally, a tackifying resin" (Br. 3, last para.). Appellants assert, however, that Halloran prefers an ethylene vinyl acetate copolymer and a blend of ethylene vinyl acetate copolymers, and that "[t]here is no disclosure or suggestion of a hot melt adhesive formulated for low temperature application (below less than about 110°C) that contain ethylene n-butyl acrylate as the only ethylene copolymer present in said adhesive, a paraffin wax, a rosin derived tackifier and an aromatic tackifier" (Br. 4, first para.). However, we, like the Examiner, are not persuaded by this argument inasmuch as Halloran specifically claims a hot melt adhesive that comprises ethylene n-butyl acrylate as the ethylene copolymer (*see* claim 6). Accordingly, we are convinced that it would have been obvious for one of ordinary skill in the art to select the claimed ethylene copolymer for the hot melt adhesive composition of Halloran and, thereby, attain a composition that may be

applied at the recited temperature. As the Examiner employs a similar rationale for rejecting the claims as being unpatentable over Haner '407 and Haner '506, we sustain the Examiner's rejections for the same reasons.

As a final point, we note that Appellants base no argument upon objective evidence of non-obviousness, such as unexpected results.

In conclusion, based on the foregoing and the reasons well stated by the Examiner, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (2008).

AFFIRMED

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